

**CRIMINAL BENCHBOOK COMMITTEE
INDIANA JUDICIAL CONFERENCE**

**PROPOSED MINUTES
Conference Call March 18, 2016**

The Criminal Benchbook Committee of the Indiana Judicial Conference convened by conference call on March 18, 2016, at 3:30 p.m. Eastern Daylight Savings Time.

1. **Members participating.** Clayton Graham, Chair, George Brown, David Happe, and Jeff Sharp participated in the call.
2. **Staff participating.** Mike McMahon and Jason Bennett provided the Committee with staff assistance.
3. **December call minutes.** The Committee approved the minutes of the December 11, 2015 conference call.
4. **Index.** Members reviewed the March 14, 2016 draft of the Benchbook Index distributed for the call. A number of topics listed as subtopics under general headings were approved for individual listing as well. A number of new individual topics were suggested for indexing. Staff counsel will add these to the draft and alphabetize the topics for review in the next call.
5. **Individual issues.** The Committee reviewed a number of issues for which material was distributed for the call:

E-mail warrant application – A brief reference to the statutory authorization for e-mail warrant applications, added by a 2015 statute change, was approved. The Committee agreed that more materials on electronic, telephonic, and facsimile warrant applications ought to be considered.

Electronic abstract procedures – Members agreed that staff counsel should check with the JTAC abstract project manager Lisa Thompson about content to be added for the electronic abstract and about the electronic presentence report as announced in a JTAC e-mailing in December 2015. Members also agreed that an entry should be drafted, to add to the offender commitment portion of the Sentencing chapter, on the statutory limitations for commitments of Level 6 felons to the DOC.

Home detention prohibition for sex crimes – Members approved addition of a section modification which notes the statutory change allowing home detention for persons convicted of sex crimes under certain conditions (formerly statute denied all such home detention).

Discovery depositions and confrontation right – The Committee approved addition of a proposed section on recent cases holding that “discovery depositions” may be admissible without violating defendant’s confrontation rights.

Juror “Facebook” friends – Members approved a draft addition of a reference to a recent supreme court decision on impact of “Facebook” friends on juror voir dire answers about relationship with parties or witnesses.

Guilty plea once tendered cannot be withdrawn without permission – The Committee approved addition of a reference to a case holding that a guilty plea tendered and taken under advisement by the trial judge is considered to be “entered” under the statute requiring permission to withdraw a plea after its “entry.”

Magistrate authorized to sentence on guilty plea – Members approved addition in Guilty Pleas, Judges, and Sentencing chapters of citation to the statutory amendment authorizing magistrates to impose sentence after entry of a guilty plea.

Home detention credit time terminology changes – Changes were approved to the home detention

section to reflect the 2015 statutory changes in credit time terminology. Staff counsel is to check to see whether the statutory changes are to be used retroactively.

Suspicionless probationer home searches – Members approved a draft modification of the section on probationer home searches to state the new caselaw position from the supreme court that suspicionless searches of probationer homes are permitted if the probationers either consent or are clearly informed they are subject to searches without cause or suspicion. Staff counsel were asked to draft a dialogue to give a probationer the required clear advice that the probationer would be subject to searches without suspicion.

6. **Next conference call.** Members selected 3:30 p.m. Eastern Daylight Savings Time, Friday, April 22, 2016, for the next Committee conference call.

Respectfully submitted,

Mike McMahon
Staff Counsel